

STATEMENT OF THE HONORABLE LINDA M. SPRINGER
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before the

COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

on

THE "FEDERAL PENSION FORFEITURE ACT"

FEBRUARY 1, 2006

Mr. Chairman and Members of the Committee:

I am pleased to appear today to discuss the "Federal Pension Forfeiture Act." The bill would expand the list of offenses in current law that trigger a loss of Federal retirement rights. It would add to the current list of violations a wide range of offenses, from accepting a bribe to making false statements on a Federal benefit application. The expanded list would apply to violations committed while in office, if punishable by imprisonment for more than 1 year, by a Member of Congress, a Congressional employee, or a Presidential appointee. As drafted, it would apply to a number of clerical and administrative employees at very modest salary levels as well as to individuals occupying positions at the highest levels of Government. The Administration is supportive of the concepts outlined in this draft bill and looks forward to working with Congress on the details of the legislation.

With one exception, under both current law and the bill's expanded list of offenses, survivor annuities for the widow or widower and children of an offender are barred. Payment of spousal benefits is permitted in forfeiture cases when the Attorney General determines that the spouse cooperated with Federal authorities in the conduct of a criminal investigation, and subsequent

prosecution of the individual which resulted in such forfeiture. This exception would be applicable to the offenses added by the Federal Pension Forfeiture Act.

The Office of Personnel Management (OPM) wholeheartedly endorses merit principles, with a strong emphasis on honesty and integrity in Government service. We would like to take this opportunity to briefly discuss the history of the forfeiture provisions.

The Hiss Act, Public Law 83-769, approved in 1954, contained a list of job-related Federal felonies, the conviction of which would bar retirement benefit payments to Federal employees and their families. Most of the convictions under which annuities were denied were for violations of postal law and other felony convictions that did not involve national security.

Controversy over the Hiss Act arose in cases where the courts had imposed minimal penalties, such as suspended sentences, small fines, or probation, yet the offenders and their families suffered the additional penalty of losing all annuity benefits, sometimes based on decades of service. In some cases, individuals were reemployed by the Federal Government subsequent to their convictions, and were denied annuity benefits based on that employment as well.

Due to these effects and other concerns, the Congress made major changes in the Hiss Act in 1961. The amendments strengthened the provisions dealing with national security offenses, and eliminated the provisions applicable to non-security offenses. The amendments also provided

for retroactive annuity benefits for individuals who had lost them based upon the commission of offenses unrelated to national security.

The bill being considered today, while expanding the types of violations that would result in forfeiture of annuity, would apply only if the offense is punishable by imprisonment for more than one year. Even if the actual sentence imposed in a case was suspended or was probation, the annuity would be forfeited.

Under certain circumstances, all of the offenses listed in the bill may be punished by imprisonment for more than 1 year.

In 1972, in *Hiss v. Hampton*, the United States District Court for the District of Columbia forbade application of the forfeiture law to the very individual whose misfeasance led to its passage. This bill would apply to acts committed after enactment. By so providing, this effective date provision avoids that problem.

Under the Federal Pension Forfeiture Act, the functions of the Office of Personnel Management would be limited. As with any other organization administering a covered pension system, OPM would be responsible for ensuring that the Act is applied in accordance with its provisions.

Under the existing regulations applicable to offenses upon which annuity forfeiture can be based, OPM affords the individual full due process, including the right to an evidentiary hearing before an administrative law judge.

I hope this information has been helpful to the committee. I will be glad to answer any questions you may have.